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AUG 31 2000

Ms. Amy E. Mandragouras  
Lahive & Cockfield, LLP  
28 State Street  
Boston, Massachusetts 02109

In re Application of

BALMAIN et al

Application No.: 09/051,159

PCT No.: PCT/GB96/02416

Int. Filing Date: 02 October 1996

Priority Date: 02 October 1995

Attorney's Docket No.: CCI-005US

For: ANTITUMOUR VECTOR CONSTRUCTS AND  
METHODS

:  
: DECISION ON

:  
: PETITION

:  
: UNDER 37 CFR 1.47(a)

This decision is in response to applicants' "Request for Reconsideration of Petition Pursuant to 37 C.F.R. §1.47(a)" filed 15 February 2000.

### BACKGROUND

On 10 September 1999, a decision was mailed dismissing applicants' petition under 37 CFR 1.47(a) for failure to provide sufficient proof that the nonsigning inventor, Dr. Zhu, refused to join in the present application. A two-month period for reply was set therein.

On 15 February 2000, the present renewed petition under 37 CFR 1.47(a) and three month extension of time were filed.

### DISCUSSION

A petition pursuant to 37 CFR 1.47(a) to accept the application without the signature of one of the joint inventors must include: 1) an oath or declaration signed by all available joint inventors on their own behalf and on behalf of the nonsigning inventor; 2) proof that the nonsigning inventor refuses to join in an application for patent or cannot be found or reached after diligent effort; 3) the petition fee; and 4) the last known address of the nonsigning inventor.

As indicated in the prior decision, petitioners have satisfied items (1), (3) and (4).

With regard to item (2), the present petition is accompanied by affidavits by Anne Zwirlein, Margaret Roberts and Simon Kiddle which are sufficient to establish that Dr. Zhu has refused to join in the present application.

CONCLUSION

For the reasons discussed above, the petition under 37 CFR 1.47(a) is **GRANTED**.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including according the application 35 U.S.C. 102(e) and 371(c) dates of **13 January 1999**.



Boris Milef  
Legal Examiner  
PCT Legal Office

Telephone: (703) 308-3659

Facsimile: (703) 308-6459